

Luc A. Despins (LD 5141)
David R. Gelfand (DG 1185)
Susheel Kirpalani (SK 8926)
MILBANK, TWEED, HADLEY & M^CCLOY LLP
1 Chase Manhattan Plaza
New York, New York 10005
(212) 530-5000
Counsel for the Official Committee
of Unsecured Creditors

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re: : Case No. 01-16034 (AJG)
: Jointly Administered
ENRON CORP., et al., :
: Debtors. :
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THE OFFICIAL COMMITTEE OF UNSECURED:
CREDITORS OF ENRON CORP., et al. :
on behalf of ENRON CORP, et al., :
Plaintiff : Adversary Proceeding
: No. 03-02075 (AJG)
-against- :
: KENNETH L. LAY AND LINDA P. LAY, :
Defendants. :
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**AMENDED COMPLAINT TO AVOID CERTAIN PRE-PETITION LOAN AND ANNUITY
TRANSACTIONS AS FRAUDULENT TRANSFERS**

Plaintiff The Official Committee of Unsecured
Creditors (the "Committee,") of Enron Corp. ("Enron"), debtor in
possession in the above captioned cases, and its affiliated
debtors and debtors in possession (collectively the "Debtors"),
by and through its undersigned counsel, hereby alleges as and
for its amended complaint (the "Complaint") against defendants
Kenneth L. Lay ("Lay"), Enron's former chief executive and

chairman of its board of directors and Linda P. Lay ("Mrs. Lay"), Lay's wife at all times relevant to the Complaint (collectively the "Lays"):

NATURE OF ACTION

1. This action seeks the recovery of transfers of over \$80 million to Lay and Mrs. Lay. Between May 3, 1999 and November 27, 2001, Lay used Enron common stock to repay over \$94 million in cash loans he received from Enron pursuant to a revolving loan facility. Over \$74 million of those repayments made by Lay in Enron common stock (the "Loan Transfers") occurred within one year of the Debtors' commencement of the Bankruptcy Cases on December 2, 2001 (the "Petition Date"). Lay continued to draw such cash loans from Enron until one week before the Petition Date. The tendering of Enron's own stock to repay loans taken in cash was not a fair exchange for Enron. Each of these purported "repayments" by Lay in Enron stock was a fraudulent transfer subject to avoidance under federal bankruptcy and state law for the benefit of the Debtors' estates.

2. In addition to the Loan Transfers, on September 21, 2001, little more than two months before the Petition Date, the Lays temporarily assigned to Enron their interest in two annuity contracts in exchange for \$10 million in cash belonging to Enron (the "Annuity Transfers"). The Annuity Transfers were

fraudulent transfers subject to avoidance for the benefit of the Debtors' estates.

3. The Loan Transfers and the Annuity Transfers the Lays received from Enron constitute transfers of property of The Debtors' estates. It is within the exclusive jurisdiction of the Bankruptcy Court to order the Lays to disgorge these illegitimate gains. Accordingly, the Committee brings this action seeking return of Enron's property to the Debtors' estates for the benefit of the Debtors' creditors.

THE PARTIES

4. The Debtors. Enron is a corporation organized under the laws of Oregon with its principal place of business at 1400 Smith Street, Houston, Texas. Commencing on the Petition Date and from time to time thereafter, the Debtors filed voluntary petitions for relief under 11 U.S.C §§ 101-1330 as amended (the "Bankruptcy Code"). The Debtors and approximately 3,500 of their direct and indirect subsidiaries employ approximately 25,000 individuals in their energy operations. The Debtors continue to operate their business and manage their property as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

5. Creditors' Committee. On December 12, 2001, the United States Trustee appointed the Committee, which appointment was amended from time to time thereafter. The Committee

represents the interests of all of the Debtors' unsecured creditors in these bankruptcy cases. Among other things, it is statutorily authorized to investigate the Debtors' assets and liabilities and the operation of its businesses, all with the goal of maximizing recoveries for unsecured creditors.

6. Lay is a United States citizen residing at 2001 Kirby Drive, Suite 1240, Houston, Texas, 77019. From December 9, 1996 until February 1, 2001, Lay served as Enron's Chairman and Chief Executive Officer. From February 2001 until August 14, 2001, Lay served as Enron's Chairman. From August 14, 2001 until January 23, 2002, Lay again served as Enron's Chairman and Chief Executive Officer.

7. Mrs. Lay is a United States citizen residing at 2001 Kirby Drive, Suite 1240, Houston, Texas, 77019. Mrs. Lay is currently Lay's wife. Lay and Mrs. Lay were husband and wife on all dates relevant to the Complaint.

JURISDICTION AND VENUE

8. This adversary proceeding is commenced pursuant to sections 105, 544, 548 and 550 of the Bankruptcy Code, sections 270 to 281 of the N.Y. Debtor and Creditor Law and Federal Rule of Bankruptcy Procedure 7001.

9. This Court has jurisdiction over this adversary proceeding pursuant to 28 U.S.C. §§ 157 and 1334 as the claims or causes of action arise under the Bankruptcy Code, or are

related to the voluntary petitions for relief filed by Enron under chapter 11 of the Bankruptcy Code. In particular, the claims or causes of action in this adversary proceeding concern Enron's power, as a debtor in possession cloaked with the rights of a trustee, to avoid the fraudulent transfers and obligations to the defendants of assets rightfully belonging to the Debtors' estates. The Committee, given its unique statutory role and the circumstances of this case, was expressly authorized by the Court to commence and prosecute this action.

10. Venue lies properly in this district pursuant to 28 U.S.C. § 1409(a) because this adversary proceeding arises in or is related to the Bankruptcy Cases pending in this district.

BACKGROUND

I. THE LOAN TRANSFERS

The Loan Agreement

11. On September 1, 1989, Lay and Enron entered into a loan commitment agreement (the "Loan Agreement," attached as Exhibit ("Ex.") A).

12. Pursuant to the terms of the Loan Agreement, Enron agreed "to make Advances to [Lay] . . . in an aggregate amount not to exceed at any time the amount of [\$2.5 million]" Loan Agreement § 2.01. The Loan Agreement also provided that Lay ". . . may borrow, prepay . . . and reborrow

under this section 2.01" (the "Revolving Loan Facility"). Id.

13. Between February 10, 1997, through November 27, 2001 (the "Loan Period"), Lay received cash from Enron under the Revolving Loan Facility totaling \$106,803,116.

Amendments to the Loan Agreement

14. The Loan Agreement was first amended on February 28, 1994 (the "1994 Amendment") to increase the maximum allowable balance under the Revolving Loan Facility from \$2,500,000 to \$4,000,000.

15. The Loan Agreement was also modified on May 3, 1999 (the "1999 Amendment") to enable Lay to "repay" any outstanding balance on the Revolving Loan Facility "either in cash and/or shares of common stock of Enron Corp."

16. Pursuant to the 1999 Amendment, Lay repaid \$94,025,000 of his total borrowings under the Revolving Loan Facility by repeatedly conveying shares of Enron stock to Enron. In addition, Lay maintains a balance of over \$7 million on the Revolving Loan Facility for which he has made no repayment, by cash, stock or other means.

17. On November 4, 2001, less than one month before the Petition Date, the Loan Agreement again was amended again to increase the maximum allowable balance under to Revolving Loan Facility from \$4,000,000 to \$7,500,000 (the "2001 Amendment"). Despite the fact that the 2001 Amendment was not executed until

November 4, 2001, Lay began obtaining loans over the \$4,000,000 limit in August 2001.

18. In the year preceding the Petition Date, Enron was in financial distress.

19. Omitted.

20. Omitted.

21. Omitted.

22. On August 14, 2001, Jeffrey Skilling resigned as CEO of Enron after serving approximately six months in that capacity. Lay replaced Skilling as CEO of Enron the same day.

23. Omitted.

24. Omitted.

25. Omitted.

26. Throughout the year preceding the Petition Date, Lay continued to use the Revolving Loan Facility to take out enormous cash loans from Enron while purportedly "repaying" such loans by conveying large amounts of Enron's overvalued stock back to Enron.

27. On October 25, 2001 and October 26, 2001, Lay made a combined \$2,825,000 worth of "repayments" under the Revolving Loan Facility. These were the final repayments that Lay made under the Loan Agreement. Lay received cash advances totaling \$2,525,000 as a result of transactions executed from November 1, 2001 through November 27, 2001.

Lay's Use of Enron Stock To Make Payments

28. From the time of the 1999 Amendment, when the Loan Agreement was amended to enable Lay to "repay" Enron with stock, Lay made **all** of his loan "repayments" under the Revolving Loan Facility with Enron stock.

29. Lay made 26 separate "repayments" to Enron with Enron stock. These 26 payments correspond to \$94,025,000 of the money Lay was advanced through the Revolving Loan Facility.

Transactions In The Year Preceding Enron's Bankruptcy

30. Of the 26 total Revolving Loan Facility transactions that Lay repaid in Enron stock, 22 were tendered during the one-year period immediately preceding the Petition Date. In the aggregate, these 22 payments corresponded to \$81,525,000 that Lay drew down on the Revolving Loan Facility during the one-year period.

31. On December 21, 2000, Lay received \$4,000,000 in cash from Enron under the Revolving Loan Facility.

32. On December 28, 2000, Lay conveyed to Enron 47,270 shares of Enron stock to repay \$4,000,000 of debt owed to Enron under the Revolving Loan Facility.

33. On January 25, 2001, Lay received \$4,000,000 in cash from Enron under the Revolving Loan Facility.

34. On February 1, 2001, Lay conveyed to Enron 50,768 shares of Enron stock to repay \$4,000,000 of debt owed to Enron

under the Revolving Loan Facility.

35. On March 23, 2001, Lay received \$1,100,000 in cash from Enron under the Revolving Loan Facility.

36. On April 5, 2001, Lay received \$950,000 in cash from Enron under the Revolving Loan Facility.

37. On April 19, 2001, Lay received \$1,950,000 in cash from Enron under the Revolving Loan Facility.

38. On April 27, 2001, Lay conveyed to Enron 62,992 shares of Enron stock to repay \$4,000,000 of debt owed to Enron under the Revolving Loan Facility.

39. On May 3, 2001, Lay received \$4,000,000 in cash from Enron under the Revolving Loan Facility.

40. On May 14, 2001, Lay conveyed to Enron 68,085 shares of Enron stock to repay \$4,000,000 of debt owed to Enron under the Revolving Loan Facility.

41. On May 23, 2001, Lay received \$4,000,000 in cash from Enron under the Revolving Loan Facility.

42. On May 25, 2001, Lay conveyed to Enron 75,472 shares of Enron stock to repay \$4,000,000 of debt owed to Enron under the Revolving Loan Facility.

43. On June 11, 2001, Lay received \$4,000,000 in cash from Enron under the Revolving Loan Facility.

44. On June 12, 2001, Lay conveyed to Enron 79,412 shares of Enron stock to repay \$4,000,000 of debt owed to Enron

under the Revolving Loan Facility.

45. On June 15, 2001, Lay received \$4,000,000 in cash from Enron under the Revolving Loan Facility.

46. On June 19, 2001, Lay conveyed to Enron 86,618 shares of Enron stock to repay \$4,000,000 of debt owed to Enron under the Revolving Loan Facility.

47. On June 22, 2001, Lay received \$4,000,000 in cash from Enron under the Revolving Loan Facility.

48. On June 22, 2001, Lay conveyed to Enron 89,127 shares of Enron stock to repay \$4,000,000 of debt owed to Enron under the Revolving Loan Facility.

49. On June 26, 2001, Lay received \$4,000,000 in cash from Enron under the Revolving Loan Facility.

50. On June 26, 2001, Lay conveyed to Enron 90,518 shares of Enron stock to repay \$4,000,000 of debt owed to Enron under the Revolving Loan Facility.

51. On June 27, 2001, Lay received \$4,000,000 in cash from Enron under the Revolving Loan Facility.

52. On June 27, 2001, Lay conveyed to Enron 85,616 shares of Enron stock to repay \$4,000,000 of debt owed to Enron under the Revolving Loan Facility.

53. On June 28, 2001, Lay received \$4,000,000 in cash from Enron under the Revolving Loan Facility.

54. On June 28, 2001, Lay conveyed to Enron 82,747

shares of Enron stock to repay \$4,000,000 of debt owed to Enron under the Revolving Loan Facility.

55. On June 29, 2001, Lay received \$4,000,000 in cash from Enron under the Revolving Loan Facility.

56. On July 26, 2001, Lay conveyed to Enron 85,397 shares of Enron stock to repay \$4,000,000 of debt owed to Enron under the Revolving Loan Facility.

57. On July 27, 2001, Lay received \$4,000,000 in cash from Enron under the Revolving Loan Facility.

58. On August 20, 2001, Lay conveyed to Enron 110,345 shares of Enron stock to repay \$4,000,000 of debt owed to Enron under the Revolving Loan Facility.

59. On August 21, 2001, Lay received \$4,000,000 in cash from Enron under the Revolving Loan Facility.

60. On August 23, 2001, Lay conveyed to Enron 108,254 shares of Enron stock to repay \$4,000,000 of debt owed to Enron under the Revolving Loan Facility.

61. On August 24, 2001, Lay received \$4,000,000 in cash from Enron under the Revolving Loan Facility.

62. On August 24, 2001, Lay conveyed to Enron 110,041 shares of Enron stock to repay \$4,000,000 of debt owed to Enron under the Revolving Loan Facility.

63. On August 28, 2001, Lay received \$4,000,000 in cash from Enron under the Revolving Loan Facility.

64. On August 30, 2001, Lay conveyed to Enron 112,676 shares of Enron stock to repay \$4,000,000 of debt owed to Enron under the Revolving Loan Facility.

65. On August 31, 2001, Lay received \$4,000,000 in cash from Enron under the Revolving Loan Facility.

66. On September 4, 2001, Lay conveyed to Enron 114,286 shares of Enron stock to repay \$4,000,000 of debt owed to Enron under the Revolving Loan Facility.

67. On September 6, 2001, Lay received \$4,000,000 in cash from Enron under the Revolving Loan Facility.

68. On October 23, 2001, Lay conveyed to Enron 75,796 shares of Enron stock to repay \$1,500,000 of debt owed to Enron under the Revolving Loan Facility.

69. On October 24, 2001, Lay received \$3,500,000 in cash from Enron under the Revolving Loan Facility.

70. On October 24, 2001, Lay conveyed to Enron 103,585 shares of Enron stock to repay \$1,700,000 of debt owed to Enron under the Revolving Loan Facility.

71. On October 25, 2001, Lay received \$1,500,000 in cash from Enron under the Revolving Loan Facility.

72. On October 25, 2001, Lay conveyed to Enron 33,369 shares of Enron stock to repay \$550,000 of debt owed to Enron under the Revolving Loan Facility.

73. On October 26, 2001, Lay received \$2,000,000 in

cash from Enron under the Revolving Loan Facility.

74. On October 26, 2001, Lay conveyed to Enron 147,727 shares of Enron stock to repay \$2,275,000 of debt owed to Enron under the Revolving Loan Facility.

75. On November 1, 2001, Lay received \$1,000,000 in cash from Enron under the Revolving Loan Facility.

76. On November 9, 2001, Lay received \$525,000 in cash from Enron under the Revolving Loan Facility.

77. On November 27, 2001, Lay received \$1,000,000 in cash from Enron under the Revolving Loan Facility.

78. Every Revolving Loan Facility payment that Lay tendered to Enron during the one-year period prior to the Petition Date consisted of Enron common stock. Lay did not make any payments to Enron under the Revolving Loan Facility with cash during this time.

II. THE ANNUITY TRANSFERS

79. On September 21, 2001, the Lays entered into a "Purchase, Sale and Reconveyance Agreement" (the "Annuity Agreement") with Enron. See Annuity Agreement Ex. B.

80. Pursuant to the Annuity Agreement, Enron paid \$10 million in cash to the joint checking account of the Lays via wire transfer.

81. In consideration of the \$10 million payment from Enron, the Lays were obligated to transfer their interests in

two annuity contracts (the "Annuity Contracts") to Enron for a period of time to end on December 31, 2005.

82. As estimated by Enron in internal documents proposing different potential transactions with the Lays, the Annuity Contracts had a collective value of \$4,691,567 as of September 21, 2001. The Annuity Agreement therefore represented a windfall of more than \$5,308,433 over and above Enron's own belief in the market value of the Annuity Contracts.

83. Enron purportedly entered into the Annuity Agreement with the Lays because of Lay's continued value to Enron, despite the fact that Lay's continued employment with Enron was of no value.

84. The Annuity Contracts were both issued by Manulife NA. Lay owned the Annuity Contract numbered 002105676. Mrs. Lay owned the Annuity Contract numbered 002155712.

COUNT I

Avoidance and Recovery of the Loan Transfers as a Fraudulent Transfer

(pursuant to 11 U.S.C. §§ 544, 548(a)(1)(B) and 550(a)(1), N.Y. Deb. & Cred. Law §§ 270 to 281 and/or other applicable law)

85. The Committee repeats and realleges the foregoing allegations as if set forth fully herein.

86. The Loan Transfers to Lay constituted a transfer of an interest in property of the Debtors.

87. The Loan Transfers to Lay were for the benefit of

Lay.

88. Enron received less than reasonably equivalent value for the Loan Transfers.

89. Enron was insolvent at the time of, or was rendered insolvent as a result of, the Loan Transfers.

90. As a direct and proximate result of the Loan Transfers, Enron and its respective creditors suffered losses amounting to at least the value of the Loan Transfers.

91. At the time of the Loan Transfers, there were creditors of Enron holding unsecured claims, and insufficient assets to pay Enron's liabilities in full. To date creditors of the Debtors holding unsecured claims still exist.

92. The Debtors are entitled to avoid the Loan Transfers pursuant to Sections §§ 544 and 548(a)(1)(B) of the Bankruptcy Code, and N.Y. Debt. Cred. Law §§ 270 to 281 and/or other applicable law.

93. Pursuant to Section 550 of the Bankruptcy Code, the Debtors may recover for the benefit of the Debtors' estates the value of Loan Transfers from the initial transferee, from an entity for whose benefit the Loan Transfers were made, or from any immediate or mediate transferee of such initial transferee.

COUNT II

Avoidance and Recovery of the Annuity Transfers as a Fraudulent Transfer

(pursuant to 11 U.S.C. §§ 544, 548(a)(1)(B) and 550(a)(1), N.Y.
Deb. & Cred. Law §§ 270 to 281 and/or other applicable law)

94. The Committee repeats and realleges the foregoing allegations as if set forth fully herein.

95. The Annuity Transfers to the Lays and the Partnership constituted a transfer of an interest in property of the Debtors.

96. The Annuity Transfers to the Lays were for the benefit of the Lays and the Partnership.

97. Enron received less than reasonably equivalent value for the Annuity Transfers.

98. Enron was insolvent at the time of, or became insolvent as a result of, the Annuity Transfers.

99. As a direct and proximate result of the Annuity Transfers, Enron and its respective creditors suffered losses amounting to at least the value of the Annuity Transfers.

100. At the time of the Annuity Transfers, there were creditors of Enron holding unsecured claims, and insufficient assets to pay Enron's liabilities in full. To date, creditors of Debtors holding unsecured claims still exist.

101. The Debtors are entitled to avoid the Annuity Transfers pursuant to Sections §§ 544 and 548(a)(1)(B) of the of

the Bankruptcy Code, N.Y. Debt. Cred. Law §§ 270 to 281, and/or other applicable law.

102. Pursuant to Section 550 of the Bankruptcy Code, the Debtor may recover the benefit of the Debtors' estates the value of Loan Transfers from the initial transferee, from an entity for whose benefit the Loan Transfers were made, or from any immediate or mediate transferee of such initial transferee.

WHEREFORE, The Committee respectfully requests that the Court enter judgment:

A. Avoiding the Loan Transfers pursuant to 11 U.S.C. §§ 544, 458 and 550(a)(1), N.Y. Debt. & Cred. Law §§ 270 to 281 and/or other applicable law.

B. Avoiding the Annuity Transfers pursuant to 11 U.S.C. §§ 544, 458 and 550(a)(1), N.Y. Debt. & Cred. Law §§ 270 to 281 and/or other applicable law.

C. Awarding interest at the maximum legal rate commencing from the time of the Complaint to the date of entry of judgment heron.

D. Awarding the cost of the suit herein.

E. Awarding the reasonable and necessary attorney's fees to the extent permitted by law, through and including trial and for any subsequent appeal.

F. Granting such other and further relief as the Court deems just and proper.

Dated: March 13, 2003

MILBANK, TWEED, HADLEY,
& MCCLOY LLP

/s/ Susheel Kirpalani

Luc A. Despins (LD 5141)
David R. Gelfand (DG 1185)
Susheel Kirpalani (SK 8926)
One Chase Manhattan Plaza
New York, NY 10005
(212) 530-5000

Counsel for the Official
Committee of Unsecured
Creditors

EXHIBIT A

LOAN COMMITMENT AGREEMENT

This Loan Commitment Agreement ("Agreement"), and made effective as of September 1, 1989, is by and between Enron Corp. ("Company" or "Lender"), a Delaware corporation having its headquarters at 1400 Smith Street, Houston, Texas 77002, and Kenneth L. Lay ("Employee" or "Borrower"), an individual currently residing in Houston, Harris County, Texas.

W I T N E S S E T H

WHEREAS, Company and Employee are parties to that certain Employment Agreement entered into this date and made effective as of September 1, 1989, of which Employment Agreement this Agreement is a part and is incorporated therein;

NOW, THEREFORE, in consideration of the mutual covenants herein contained and for other good and valuable consideration, the parties agree as follows:

ARTICLE I

DEFINITIONS AND ACCOUNTING TERMS

SECTION 1.01. Certain Defined Terms. As used in this Agreement, the following terms shall have the following meanings (such meanings to be equally applicable to both the singular and plural forms of the terms defined):

"Advance" means an advance by the Lender to the Borrower pursuant to Article II.

"Borrowing" means a borrowing by the Borrower of an Advance made by the Lender, pursuant to Article II.

"Business Day" means a day of the week, Monday through Friday, on which the offices of the Lender at 1400 Smith Street, Houston, Texas 77002, are open for business.

"Commitment" has the meaning specified in Section 2.01.

"Events of Default" has the meaning specified in Section 4.01.

"Loan Document" has the meaning specified in Section 3.01.

"Note" means a promissory note of the Borrower payable to the order of the Lender, in substantially the form of Attachment A hereto, evidencing the aggregate indebtedness of the Borrower to the Lender resulting from the Advances made by the Lender.

"Notice of Borrowing" has the meaning specified in Section 2.02.

"Pledge Agreement" has the meaning specified in Section 3.01.

"Termination Date" means the earlier date of (i) August 31, 1994, (ii) termination of Borrower's employment with Lender pursuant to Section 4.01(b), or (iii) Borrower's death.

SECTION 1.02. Computation of Time Periods. In this Agreement in the computation of periods of time from a specified date to a later specified date, the word "from" means "from and including" and the words "to" and "until" each means "to but excluding".

ARTICLE II

AMOUNTS AND TERMS OF THE ADVANCES

SECTION 2.01. The Advances. The Lender agrees, conditioned on the future performance of substantial employment services by Borrower, and on the terms and conditions hereinafter set forth, to make Advances to the Borrower (a "Borrowing") from time to time on any Business Day during the period from the date hereof until August 31, 1993 in an aggregate amount not to exceed at any time the amount of Two Million Five Hundred Thousand Dollars (\$2,500,000.00), as such amount may be reduced pursuant to Section 2.03 (such Lender's "Commitment"). Within the limits of the Commitment, the Borrower may borrow, prepay pursuant to Section 2.06 and reborrow under this Section 2.01.

SECTION 2.02. Making the Advances. Each Borrowing shall be made on notice, given not later than 11:00 A.M. (Houston, Texas time), at least three Business Days prior to the date of the proposed Borrowing by the Borrower, to the Lender. Each such notice of a Borrowing (a "Notice of Borrowing") shall be in writing, substantially in the form of Attachment B hereto, specifying therein the requested (i) date of such Borrowing, and (ii) aggregate amount of such Borrowing. Before 3:00 P.M. (Houston, Texas time) on the date of such Borrowing, and upon fulfillment of the applicable conditions set forth in Article III, the Lender shall Advance the Borrowing funds to Borrower at the Lender's address.

SECTION 2.03. Reduction of the Commitment. The amount of the Lender's Commitment specified in Section 2.01 shall be reduced by the amount of any prepayment made by Borrower pursuant to Section 2.06 after January 1, 1994, provided, however, that on the earlier of (i) the Termination Date, or (ii) Borrower's termination of employment with the Lender for any reason, the Commitment of the Lender shall be zero.

SECTION 2.04. Repayment. The Borrower shall repay the unpaid principal amount of each Advance made by the Lender in accordance with the Note made by the Borrower to the order of the Lender, in no event later than August 31, 1994.

SECTION 2.05. Interest. The Borrower shall pay interest, compounded annually, on the unpaid principal and interest at an annual rate determined under the following formula for each Advance: $I = A \times AFR$, where "I" is the amount of interest, "A" is the amount of an Advance, and "AFR" is the applicable federal rate as defined under U.S. Internal Revenue Code Section 1274(d) in effect at the date of each Advance. The Borrower shall make payments of accrued interest with respect to each Advance on the anniversary date of an Advance, or at the election of Borrower on the subsequent 31st day of December.

SECTION 2.06. Prepayments. (a) Mandatory. There shall be no mandatory prepayment of the Advances made by the Lender to the Borrower.

(b) Optional. The Borrower may, upon at least three Business Days' notice to the Lender stating the proposed date and aggregate principal amount of the prepayment, and if such notice is given the Borrower shall, prepay such outstanding principal amounts of the Advances, together with accrued interest to the date of such prepayment on the principal amount prepaid without premium or penalty, or at the Borrower's election, Borrower may make a prepayment of interest only.

SECTION 2.07. Payments and Computations. (a) The Borrower shall make each payment under any Loan Document not later than 11:00 A.M. (Houston, Texas time) on the day when due in U.S. dollars to the Lender at its address referred to in Section 5.02.

(b) All computations of interest pursuant to Section 2.05 shall be made on the basis of a year of 365 or 366 days, as the case may be.

(c) Whenever any payment hereunder or under the Notes shall be stated to be due on a day other than a Business Day, such payment shall be made on the next succeeding Business Day, and such extension of time shall in such case be included in the computation of payment of interest.

SECTION 2.08. Loan Intentions. It is the intention of the parties that all Advances made under this Loan Commitment Agreement are made in full compliance with and conditioned upon U.S. Internal Revenue Code Section 7872(f)(5) in effect as of such date.

SECTION 2.09. Payment of Prior Loan. Borrower consents, directs and authorizes Lender to use the proceeds of the first Advances made under this Agreement to pay the remaining balance of principal and interest due Lender under that certain Loan Commitment Agreement between the parties dated as of May 15, 1987.

ARTICLE III

CONDITIONS OF LENDING

SECTION 3.01. Condition Precedent to Advances. The obligation of the Lender to make any Advance is subject to the condition precedent that the Lender shall have received at least three Business Days prior to the date of such Advance the following, in form and substance satisfactory to the Lender:

(a) A Note made by Borrower to the order of the Lender, and

(b) A Pledge Agreement, making a pledge and assignment to the Lender of Pledged Collateral having a present value and liquidity reasonably acceptable to Lender, duly executed by the Borrower, in substantially the form of Attachment C (the "Pledge Agreement", and, together with this Agreement and the Note, the "Loan Documents" and individually a "Loan Document"), together with evidence that all actions in the opinion of the Lender, desirable to perfect and protect the security interests created by the Pledge Agreement have been or will be taken in a timely manner.

ARTICLE IV

EVENTS OF DEFAULT

SECTION 4.01. Events of Default. If any of the following events ("Events of Default") shall occur and be continuing:

(a) The Borrower shall fail to pay any principal of any Note when the same becomes due and payable, or shall fail to pay any interest on any Note for more than five days after the same becomes due and payable; or

(b) The employment of the Borrower with the Lender, pursuant to the Employment Agreement between the parties effective September 1, 1989, terminates other than through Borrower's "Involuntary Termination", as defined in said Employment Agreement; or

(c) The death of the Borrower;

then, and in any such event, the Lender may by notice to the Borrower, declare a Note, all interest thereon and all other amounts payable under this Agreement to be forthwith due and payable, without presentment, demand, protest or further notice of any kind, all of which are hereby expressly waived by the Borrower;

provided, however, that in the event of an actual or deemed entry of an order for relief with respect to the Borrower under the Federal Bankruptcy Code, (A) the obligation of the Lender to make Advances shall automatically be terminated and (B) the Notes, all such interest and all such amounts shall automatically become and be due and payable, without presentment, demand, protest or any notice of any kind, all of which are hereby expressly waived by the Borrower.

ARTICLE V

MISCELLANEOUS

SECTION 5.01. Amendments, Etc. No amendment or waiver of any provision of any Loan Document, nor consent to any departure by the Borrower therefrom, shall in any event be effective unless the same shall be in writing and signed by the Lender, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

SECTION 5.02. Notices, Etc. All notices and other communications provided for hereunder shall be in writing (including telegraphic, telex or cable communication) and mailed, telegraphed, telexed, cabled or delivered, if to the Lender, at its address at 1400 Smith Street, Houston, Texas 77002, Attention: Treasurer; if to the Borrower, at 3195 Inwood, Houston, Texas 77019, or at such other address as shall be designated by either such party in a written notice to the other party. All such notices and communications shall, when mailed, telegraphed, telexed or cabled, be effective when deposited in the mails, delivered to the telegraph company, confirmed by telex answerback or delivered to the cable company, respectively.

SECTION 5.03. No Waiver; Remedies. No failure on the part of the Lender to exercise, and no delay in exercising, any right under any Loan Document shall operate as a waiver thereof; nor shall any single or partial exercise of any such right by Lender preclude any other or further exercise thereof or the exercise of any other right. The remedies provided in the Loan Documents are cumulative and not exclusive of any remedies provided by law.

SECTION 5.04. Binding Effect; Governing Law. This Agreement and the Notes shall be governed by, and construed in accordance with, the laws of the State of Texas.

SECTION 5.05. Nontransferability. Notwithstanding any other provision of a Loan Document to the contrary, in no event shall the benefits of the interest arrangements of the Advances by the Lender and the Borrowings by the Borrower be transferable.

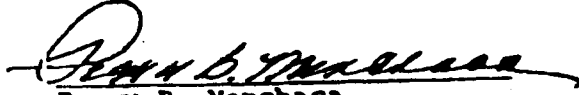
IN WITNESS WHEREOF, the parties have executed this Agreement
as of the date first above written.

ENRON CORP.

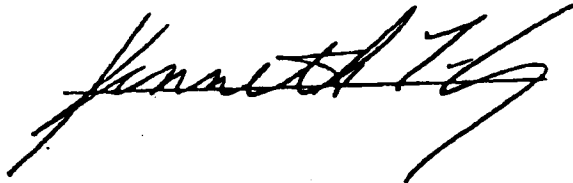
By: 

Title: Chairman of the Executive Committee
of the Board of Directors

ATTEST:


Peggy B. Menchaca
Vice President & Secretary

KENNETH L. LAY



8908073.PDM

EXHIBIT B

PURCHASE, SALE AND RECONVEYANCE AGREEMENT

This Purchase and Sale Agreement (the "Agreement"), effective as of September 21, 2001 (the "Effective Date"), is made and entered into by and between Kenneth L. Lay (the "Executive") and Linda P. Lay (jointly, the "Lays") and Enron Corp. (the "Company"), a corporation organized under the laws of the State of Oregon.

WITNESSETH:

WHEREAS, the Lays own (i) a variable annuity contract issued by the Manufacturer's Life Insurance Company of North America, policy number 002105676, attached hereto as Exhibit 1, and (ii) a variable annuity contract issued by the Manufacturer's Life Insurance Company of North America, policy number 002155712, attached hereto as Exhibit 2 (hereinafter, both contracts will be referred to individually as the "Contract" and collectively as the "Contracts"); and

WHEREAS, the Executive is currently employed by the Company as Chairman of the Board and Chief Executive Officer of the Company; and

WHEREAS, the Executive's services have been, and the Company expects will continue to be, of substantial value to the Company; and

WHEREAS, the Lays desire to transfer ownership of the Contracts to the Company for consideration; and

WHEREAS, the Company desires to purchase the Contracts from the Lays for consideration and to agree to reconvey such Contracts to the Executive upon the occurrence of certain specified events, thereby encouraging the Executive to remain in the employment of the Company;

NOW, THEREFORE, it is agreed as follows:

1. **Definitions.** Where the following words and phrases appear in this Agreement, they will have the respective meanings set forth below unless their context clearly indicates to the contrary:

1.1 **Affiliate:** Each trade or business (whether or not incorporated) which together with the Company would be deemed to be a "single employer" within the meaning of subsections (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986, as amended, or any other entity designated by the Board of Directors of the Company as an "Affiliate" for purposes of this Agreement.

1.2 **Disability:** With respect to the Executive, such total and permanent disability as qualifies the Executive for benefits under the long-term or extended disability plan of the Company or Affiliate covering the Executive at the time. If no such long-term or extended disability plan covers the Executive at the time of the alleged disability, "Disability" will mean an inability to perform duties and services for the Company or an Affiliate by reason of a medically determinable physical or mental

impairment supported by medical evidence which in the opinion of the Board of Directors of the Company can be expected to result in death or which can be expected to last for a continuous period of not less than twelve months.

1.3 *Good Reason*: "Constructive termination" or "good reason" (or such similar reference) as defined in the Executive's employment agreement with the Company and, in the absence of such employment agreement or such definition, "Good Reason" will mean the occurrence of any of the following events without the Executive's written consent: (i) a substantial and adverse change in the Executive's duties, control, authority, status, or position with the Company or an Affiliate, or the assignment to the Executive of any duties or responsibilities that are materially inconsistent with such status or position, or a material reduction in the duties and responsibilities previously exercised by the Executive associated with such position, or a loss of title, loss of significant authority, power, or control associated with such position, or any removal of the Executive from such position, except in connection with a Termination for Cause or Disability or as a result of death; or (ii) any material reduction in the Executive's base salary from the Company or an Affiliate, unless such reduction shall also apply to similarly situated executives of the Company or an Affiliate and does not exceed ten percent per year.

1.4 *Involuntarily Termination*: Termination by the Company of the Executive's employment as an employee with the Company or an Affiliate at the election of the Company or Affiliate, provided that such termination is not a Termination for Cause. Involuntary termination shall not include a transfer of assignment or location where the Executive is employed by or in the service of the Company or an Affiliate both before and after the transfer.

1.5 *Termination for Cause*: "Termination for Cause" (or such similar reference) as defined in the Executive's employment agreement with the Company and, in the absence of such employment agreement or such definition, "Termination for Cause" will mean Termination of the Executive's employment or service at the election of the Company or an Affiliate because of the Executive's (i) conviction of a felony relating to or in connection with the Company or the Company's business (which, through lapse of time or otherwise, is not subject to appeal), (ii) willful refusal without proper legal cause to perform the Executive's duties and responsibilities; or (iii) willful engagement in conduct which the Executive has, or in the opinion of the Board of Directors of the Company or the Affiliate for which the Executive is at the time employed should have, reason to know is materially injurious to the Company or an Affiliate. Such termination of employment or service will be effected by notice thereof delivered by the Company or an Affiliate to the Executive and will be effective as of the date stated in such notice; provided, however, that if (i) such termination of employment or service is because of the Executive's willful refusal without proper cause to perform any one or more duties and responsibilities and (ii) within seven days following the date of such notice the Executive ceases such refusal and uses all reasonable efforts to perform such obligations, the termination of employment or service, if made, will not be for cause.

2. Transfer of Ownership of the Contracts from the Lays to the Company.

Subject to and in accordance with the provisions, terms, and conditions specified in Paragraphs 2.1 through 2.4 below, the Lays agree to transfer ownership of the Contracts to the Company for consideration from the Company in the amount of FIVE MILLION DOLLARS (\$5,000,000) PER CONTRACT (the "Purchase Price"), which all parties agree constitutes the fair market value of each Contract, and the Company agrees to tender the Purchase Price to the Lays and to accept ownership of the Contracts; provided, however, that prior to or simultaneous with the tender of the Purchase Price to the Lays, the Lays (i) fully and accurately complete the Personal Information Change Form (Maintenance Form) attached hereto as Exhibit 3 for each of the Contracts directing a change in ownership of such Contract to the Company and designating the Company as sole and primary beneficiary to receive any death proceeds paid under the Contracts, (ii) execute and submit such forms to the Company, and (iii) transfer the originals and all copies of the Contracts in their possession to the Company.

2.1 *The Closing.* The closing of the purchase of the Contracts by the Company pursuant to this Section (the "Closing") will take place at the offices of the Company, 1400 Smith Street, Houston, Texas 77002, at ____ A.M., Houston time, on September 21, 2001, or on such other date and at such hour and place as mutually agreed upon in writing by the Lays and the Company.

2.2 *Payment of the Purchase Price.* The Company will deliver a certified check in the principal amount of the Purchase Price or wire funds in the principal amount of the Purchase Price to the Lays at the Closing, payable jointly to the Lays.

2.3 *Representations and Warranties by the Lays.* The Lays represent and warrant to the Company as follows:

2.3.1 The Lays (i) have the legal capacity and authority to execute, deliver, and perform this Agreement, (ii) are the sole legal and beneficial owners of the Contracts, (iii) have not granted or agreed to grant to any person any lien, claim, charge, security interest, encumbrance or adverse claim on the Contracts, and (iv) have not taken any other action which would result in the imposition of any such lien, charge, security interest, encumbrance or adverse claim other than as provided for in this Agreement.

2.3.2 Upon transfer of ownership of the Contracts to the Company, the Company will have good title to the Contracts, free and clear of any liens, charges, security interests, encumbrances or adverse claims whatsoever other than as provided for in this Agreement.

2.3.3 This Agreement has been duly executed and delivered by the Lays and constitutes the valid and binding obligations of the Lays enforceable against the Lays in accordance with its terms.

2.3.4 The execution and delivery by the Lays of this Agreement does not, and the consummation by the Lays of the transaction contemplated herein on the part of the Lays will not violate, cause a default under, breach the terms of, or

require the consent, authorization or approval of any other person under any governing instrument or any loan agreement, mortgage, indenture, or other contract or agreement to which the Lays or the Company or an Affiliate is a party, by which the Lays or the Company or an Affiliate is bound, or to which the properties of either are subject or under any franchise, license, or permit applicable to either of them.

2.4 *Representations of the Company.* The Company hereby represents and warrants to the Lays as follows:

2.4.1 The Company has legal capacity and authority to execute and perform this Agreement.

2.4.2 The execution, delivery, and performance of this Agreement and the transfer of ownership of the Contracts contemplated hereby will not conflict with or result in a breach of any agreement, contract, statute, undertaking, or other arrangement to which the Company or an Affiliate is a party or by which the Company or an Affiliate is bound.

2.4.3 The Company is satisfactorily familiar with the Contracts and in purchasing the Contracts, it has relied solely upon the judgment of the Company and not upon any representations of any other person, other than those of the Lays set forth herein.

2.4.4 The warranties and representations contained herein shall survive the execution hereof.

3. *Reconveyance of the Contracts to the Executive.* Subject to and in accordance with the provisions of Paragraphs 3.1 through 3.3 below, the Company agrees to transfer ownership of the Contracts acquired by the Company pursuant to Section 2 of this Agreement to the Executive upon the occurrence of the earlier of (i) the completion of a continuous period of employment by the Executive with the Company extending from the Effective Date to December 31, 2005 or (ii) a termination of the Executive's employment due to (a) the Executive's retirement from the Company or an Affiliate with the consent of a majority of the members of the Board of Directors of the Company or the Affiliate for which the Executive is at the time employed, (b) a Disability of the Executive, or (c) an Involuntary Termination other than a Termination for Cause, or (d) a termination for Good Reason.

3.1 *Effect of Termination of Employment.* Except as provided by this Section and Section 4 below, a termination of the Executive's employment for any reason prior to December 31, 2005 will result in the complete, total and permanent termination of (i) all obligations of the Company arising under this Agreement to transfer ownership of the Contracts to the Executive, (ii) all obligations of the Company to pay proceeds of the Contracts pursuant to Section 4 of this Agreement, and (iii) any claims of the Lays to the Contracts.

3.2 *Method of Reconveyance.* Pursuant to a transfer of ownership of the Contracts from the Company to the Executive in accordance with this Section, the

Company will (i) transfer the originals and all copies of the Contracts in its possession to the Executive and (ii) fully and accurately complete a Personal Information Change Form (Maintenance Form) for each of the Contracts directing a change in ownership of such Contract to Executive and designating such person(s) as Executive may direct to receive any death proceeds paid under the Contract and (iii) submit such forms to Executive.

3.3 *Consideration for Reconveyance.* No consideration will be paid by the Executive or any party pursuant to a transfer of ownership of the Contracts to the Executive in accordance with this Section.

4. **Death of Insured.** Upon the death of either of the Lays while the Company owns the Contracts and continues to have a potential obligation to reconvey them to Executive, the Company agrees to pay all proceeds received under the Contracts as a result of the death of the decedent to the Executive if the decedent is Linda P. Lay or Executive's estate if the decedent is Kenneth L. Lay. No other benefits are provided by this Agreement upon the death of either of the Lays.

5. **Annuity Payments.** If the Company is the owner of a Contract at the Contract's maturity date and either of the Lays receives under the Contract any annuity payment, he or she shall within 30 days of receipt thereof pay to the Company the amount so received net of federal and state income taxes.

6. **No Assignment.** Neither this Agreement nor any right created hereby may be assigned by any of the parties (or their successors in interest) without the prior written agreement of the parties. The Company may not assign, anticipate, sell, transfer, or otherwise encumber in any manner, either voluntarily or involuntarily, the Contracts prior to December 31, 2005 without the written agreement of the Lays unless the Company's potential obligation to reconvey the Contracts to Executive has terminated.

7. **Binding Effect.** This Agreement will be binding upon and inure to the benefit of the Company, its successor and assigns and the Lays and their heirs, executors, administrators, and legal representatives.

8. **Not a Contract of Employment.** This Agreement will not be deemed to constitute a contract of employment between the parties hereto, nor shall any provision hereof restrict the right of the Company to discharge the Executive or restrict the right of the Executive to terminate his employment.

9. **Nature of Agreement.** The benefits herein provided for are in addition to, and not in lieu of, any other arrangement pursuant to which the Company may have made provisions for the Lays, and no such arrangement shall affect or be affected by the provisions of this Agreement. Nothing contained in this Agreement shall be construed to alter, abridge, or in any manner affect the rights and privileges of the Lays to participate in any pension, thrift, profit sharing, stock bonus, annuity or similar plan which the Company may now or hereafter maintain.

10. **Withholding of Tax.** Notwithstanding any provision in this Agreement to the contrary, the Company is authorized to withhold from any amounts payable hereunder to the Executive any tax required to be withheld by the federal or any state or local government. For

purposes of Sections 3 and 4 hereof, any amounts so withheld will be deemed to have been paid to the Executive.

11. Effect on other Company Benefits and Perquisites. This Agreement shall not be construed to alter, abridge or in any manner affect the rights, privileges, or benefits provided by any deferred compensation or retirement arrangement, plan, program, perquisite, practice, or policy which the Company may now or hereafter maintain.

12. Modification. This Agreement may not be modified, altered or amended in any way except by a written instrument signed by the parties hereto or their respective successor or assigns, and may not be otherwise terminated except as provided herein.

13. Governing Law. Except to the extent federal law applies and preempts state law, the Agreement will be construed, enforced, and administered according to the laws of the state of Texas, excluding any conflict-of-law rule or principle that might refer construction of the Agreement to the laws of another state or country. In the event of litigation relating to the Agreement, such litigation must be brought in state or federal court residing in Houston, Harris County, Texas, and each party to this Agreement and each person or entity claiming rights of or through a party to this Agreement irrevocably appoint the Secretary of State for the State of Texas as agent for receipt of service of process in connection with such litigation.

14. Termination of Agreement. This Agreement will automatically terminate upon the first to occur of (i) the reconveyance of ownership of the Contracts to the Executive as provided in Section 3 of this Agreement or (ii) termination of the Company's potential obligation to reconvey the Contracts to Executive. This Agreement shall terminate as to either Contract upon payment by the Company pursuant to Section 4 of a death benefit upon the death of the insured under the Contract.

15. Arbitration. Any controversy, whether contractual or otherwise, arising out of or related in any way to the Agreement, will be subject to final and binding arbitration in lieu of litigation. Any such arbitration proceedings will be subject to the labor arbitration rules of the American Arbitration Association and will be held in Houston, Texas before a single arbitrator selected by the parties from the American Arbitration Association's employment law panel. In deciding the substance of the parties' claims, the arbitrator will apply the substantive laws of the state of Texas (excluding Texas choice-of-law principles that might call for the application of some other state's law). The arbitrator will not have the power to add to or ignore any of the terms and conditions of the Agreement. His decision will not go beyond what is necessary for the interpretation and application of the Agreement and obligations of the parties under the Agreement. If any controversy regarding the Agreement is submitted to arbitration, the parties and any persons or entities claiming through the parties agree that the arbitrator's decision will be final and legally binding on all parties. The arbitration provisions of this paragraph will be governed by the provisions of the Federal Arbitration Act.

16. Entire Agreement. The foregoing constitutes the entire agreement and understanding of the parties on the subject hereof and supersedes all prior agreements and understandings relating to the subject matter hereof.

IN WITNESS WHEREOF, the Company has caused this Agreement to be executed by its duly authorized officer and the Lays have set their hands this 21 day of September 2001.

ENRON CORP.

KLS

By: Mary L. Joyce
Name: MARY JOYCE
Title: Vice President

Kenneth L. Lay
KENNETH L. LAY

Linda P. Lay
LINDA P. LAY

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